

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

NORTHERN BANK & TRUST CO.,	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 23-368WES
	:	
BRIAN D. SHEEHAN and	:	
NICHOLAS FIORILLO,	:	
Defendants.	:	

**MEMORANDUM AND ORDER**

PATRICIA A. SULLIVAN, United States Magistrate Judge.

Referred to me for determination pursuant to 28 U.S.C. § 636(b)(1)(A) is the motion of *pro se* Defendant Nicholas Fiorillo to consolidate this case<sup>1</sup> that he purportedly removed from the Massachusetts Superior Court (Middlesex) with seven others that he either filed as federal court civil actions in this Court or that he removed to this Court from an array of state courts in Massachusetts. ECF No. 5.<sup>2</sup> Northern Bank & Trust Co. (“Northern”) has filed its opposition to the motion. ECF No. 7. Claiming that it will serve judicial economy, Mr. Fiorillo accurately represents that he is a *pro se* litigant in each of these cases. Otherwise, as Northern vehemently argues, the balance of his representations about the commonality of parties, law and fact among these cases appear to be largely untrue. *Id.* Indeed, the Plaintiff in this case – Northern – is not even named as a party in any of the cases listed in the motion except for 23-cv-398WES.<sup>3</sup> Nor is

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<sup>1</sup> This case has been pending in the Middlesex County Superior Court of the Commonwealth of Massachusetts since April 5, 2023. ECF No. 1-2 at 4. In that court, it is captioned as Northern Bank & Trust Company v. Brian D. Sheehan and Nicholas Fiorillo and is designated 2381-cv-00959. *Id.* at 4, 112-113.

<sup>2</sup> The caption of the motion also asks the Court to stay something, although this relief is not mentioned in the body of the motion and it is not clear what Mr. Fiorillo wants the Court to stay. The Court has disregarded this aspect of the motion; to the extent that Mr. Fiorillo intended to ask the Court to stay something, the motion is denied.

<sup>3</sup> While Northern is not named as a party in Ocean Development Partners, LLC, MA v. NE Edge, LLC, 23-cv-121WES, the docket reflects that Plaintiff requested two summonses for “Northern Bank.” ECF Nos. 13-48, 13-71. Although ECF No. 13-48 is a summons for “Norther Bank and Trust,” ECF No. 13-71 is a summons for Mr. Thomas

it clear that this simple breach of contract case implicates the issues of law and fact (involving bankruptcy and property usurpation) that appear to form the basis for 23-cv-398WES. Thus, Mr. Fiorillo’s representation in the motion that this case and all of the other cases are “very similar, if not identical” appears to be inaccurate. ECF No. 5 at 4. By way of just one example, in 23-cv-121WES, Mr. Fiorillo has named (but not yet served as far as the docket reveals) over seventy persons and entities, including Apple Inc., T-Mobile, the City of Boston and various officials and agencies of the City – as far as the pleadings reveal, none of these are implicated in any way in the facts presented in this case. Further, while it is conceivable that subsequent proceedings in 23-cv-398WES will reveal commonality such that consolidation might yield efficiency, it is premature to make that determination at this phase where none of the defendants have yet been served and appeared and the filing fee has not yet been paid. More importantly, as of today, I have issued reports and recommendations recommending that some of the removed cases be remanded to state court. E.g., Delpidio v. Fiorillo, No. CV 23-349WES, 2023 WL 6632965, at \*7 (D.R.I. Oct. 12, 2023); BSI 254 Westfield, LLC v. Fiorillo, No. CV 23-363WES, 2023 WL 6532639, at \*7 (D.R.I. Oct. 6, 2023). I have also issued a report and recommendation in this case recommending immediate remand. ECF No. 8. Therefore, consolidation is not appropriate at this time.

Based on the foregoing, Mr. Fiorillo’s motion to consolidate (ECF No. 5) is denied.

/s/ Patricia A. Sullivan  
 PATRICIA A. SULLIVAN  
 United States Magistrate Judge  
 October 16, 2023

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McLaughlin at what appears to be the same mailing address as listed for Northern. With Northern is not listed as a party, the Clerk’s Office has not issued these proposed summonses. ECF No. 18. Moreover, the complaint in 23-121WES does not mention Northern or Thomas McLaughlin. Mr. Fiorillo is directed to address this conduct (requesting summonses for the party in this case, Northern, in a case in which he has not sued it) in the show cause response he has been ordered to provide in this case. Text Order of October 13, 2023.